IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.381 OF 2004

The State of Maharashtra ...Applicant

Vs.

Prabhakar Keshav Rane ...Respondent

Shri A.S.Shitole, A.P.P for the Applicant.

CORAM : A. S. OKA, J.

DATE : NOVEMBER 17, 2006.

P.C.:

1. Heard the learned A.P.P for the Applicant in support of prayer for grant of leave. The acquittal of the Respondent is for offences punishable under section 457 and 380 of the Indian Penal Code.

2. The case of the prosecution is that the complainant alongwith his family members is residing in a house at village Sarjekot which consists of several rooms. There is an iron cupboard in his house in which ornaments and other valuable articles are kept under a lock and key. The key of the cupboard used to be kept in a plastic vessel in the same room. On 21st December, 2002 the complainant’s daughter went in the room where cupboard was kept. She found that the iron

cupboard was open and empty box of ornaments was lying on the ground. The complainant found that the iron bars of the window of the house were removed.

3. The Respondent was later on arrested and it is alleged that the ornaments of the complainant except two rings were recovered from him.

4. The learned Trial Judge has considered evidence of all the prosecution witnesses and especially the complainant. I have perused the findings recorded by the learned Judge.

5. According to the evidence of P.W.1(complainant) and his wife (P.W.2), the Respondent was working as a servant in their house for a period of 7 to 8 years prior to the date of commission of offence. According to their case, the Respondent used to keep the valuables in safe custody and used to receive cash amount for and on behalf of the P.W.1 and used to keep the same in safe custody. The evidence disclosed that the Respondent used to handle transaction upto Rs.1,00,000/-. It was admitted by P.W.1 that the Respondent left the house with his permission. The

learned Judge has noted that in the F.I.R lodged by P.W.1 he had not expressed any suspicion against the Respondent. P.W.1 has stated that the accused after returning to his house had shown all the muddemal gold ornaments except the two rings. He admitted that the police took custody of the said ornaments in his house. The learned Judge observed that if there was any dishonest intention on the part of the Respondent he would not have come back with all muddemal articles except two rings. In so far as two rings are concerned, the learned Judge found that the defence of the Respondent was plausible. The learned Judge noted from the version of P.W.1 that he had himself given two gold rings to the Respondent-accused for the purposes of marriage of his sister.

6. Considering the conclusions recorded by the learned Trial Judge, it is apparent that the same are possible conclusions which can be drawn on appreciation of evidence. No case is made out for grant of leave. Appeal is dismissed.

JUDGE